IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.301 OF 2004

The State of Maharashtra ...Appellant
Vs.
Jagitsingh Harisingh Khalsa ...Respondent

Mr G.P. Mulekar, A.P.P. for the Appellant.

CORAM : R.S.MOHITE, J.
DATE : JANUARY 16, 2006.

P.C.:

1. This is an Appeal filed by the State impugning the Judgment and Order passed by the Judicial Magistrate, First Class, Cantonment Court, Pune on 29.11.2003, acquitting the accused of the offences punishable under section 304-A and 427 of the Indian Penal Code and for the offence under section 119 punishable under section 177 of the Motor Vehicles Act. It is seen from the impugned Judgment and Order that the same has been passed by cogent and acceptable reasons. According to the complainant his tempo was hit by the car driven by the accused. The accused was talking on the mobile phone. As a result of this hit one Abhijeet who was travelling in the tempo fell down from the tempo and the tempo fell down on the said person. Abhijeet later died in the hospital. The Trial Court has reasoned that the car had came over the speed breaker and therefore could not have been at fast speed. Though the complainant claimed that the

accused was talking on the mobile phone, the said mobile phone has not been seized by the police and that though the statement of several eye-witnesses were recorded, no independent witness was examined. In such circumstances, view taken is the possible view. Hence, leave is refused and consequently Appeal is dismissed.

JUDGE